IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3384 OF 2005

1. Yosuf Poonawalla

2. Rahman Iqbal Shaikh ..Applicants

V/s.

Union of India & Ors. ..Respondents

Mr.Mukul Rohadgi with Mr.Yogesh M.Rohira for the applicants.

Mrs.S.D.Shinde APP for Respondent/State.

Mr.H.V.Mehta i/by Mr.T.C.Kaushik for Central Government.

Coram : R.S.MOHITE,J

Date : 19.05.2005.

PC

1. This is an application which has been made for grant of bail. The facts of the case are that the applicants were served with a notice dated 14.4.2005 under Section 108 of the Customs Act 1962. Apprehending arrest, they had preferred two Anticipatory bail applications in the Sessions Court bearing Anticipatory Bail Application No.637 of 2005 and 638 of 2005. When the matter came up before the Sessions Court on 5.5.2005, the Advocate for the respondents i.e. Central Intellegence Unit, Navasheva submitted that the respondents would not

arrest the applicants till the enquiry is completed and requested 4 weeks time for further enquiry and for submitting the final report.

2. Mr.H.V.Mehta for the respondents Government states that the enquiry is not completed even till today. The Court then passed an order directing the applicants to report to the office of the Central Intellegence Unit Navasheva as and when required by the respondents.

3. The respondents however, never called the applicants to attend the office of Central Intellegence Unit Navasheva and on 13.5.2005 not-with-standing the statement made by the Advocate before the Sessions Court the applicants were shown as arrested. They were then produced before the Magistrate for remand on 14.5.2005 and remanded to judicial custody. On 16.5.2005 on an application made by the respondents custodial interrogation was permitted on 17th, 18th, 19th and 20th of May 2005. According to the Advocate for the applicants custodial interrogation was over. The applicants have now moved this Court directly without moving the Sessions Court for grant of bail.

4. From the aforesaid facts it is clear that the detention of the applicants inspite of the statement

made to the Sessions Court was clearly improper and illegal. The respondents ought not to have arrested the applicants when their Advocate had given an assurance that the applicants would not be arrested till the completion of the enquiry. In this view of the matter, I direct that the applicants be released forthwith subject to the condition that both the applicants shall remain present in the Sessions court on 6.6.2005. On that day, the Sessions court would take up the anticipatory bail application for hearing on merits and will decide the same in accordance with law. Till the anticipatory bail application is decided on merits, if the respondents require the presence of the applicants for interrogation they will give a notice to the applicants in writing for their presence.

5. Subject to these directions, application is disposed of.

. Parties to act on an ordinary copy of this order duly authenticated by the Personal Secretary/Court Sheristedar of this Court as a true copy.

(R.S.MOHITE,J)